

the year in which the net operating loss, net capital loss, investment credit, or WIN credit arose until the date on which the repayment of such excessive amount is received. Where there has been an allowance of an overpayment with respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the last day of such subsequent taxable year until the date on which the repayment of such excessive amount is received.

(f) *Applicable rules.* (1) Any interest prescribed by section 6601 shall be assessed and collected in the same manner as tax and shall be paid upon notice and demand by the district director or the director of the regional service center. Any reference in the Code (except in subchapter B, chapter 63, relating to deficiency procedures) to any tax imposed by the Code shall be deemed also to refer to the interest imposed by section 6601 on such tax. Interest on a tax may be assessed and collected at any time within the period of limitation on collection after assessment of the tax to which it relates. For rules relating to the period of limitation on collection after assessment, see section 6502.

(2) No interest under section 6601 shall be payable on any interest provided by such section. This paragraph (f)(2) shall not apply after December 31, 1982, with respect to interest accruing after such date, or accrued but unpaid on such date. See § 301.6622-1.

(3) Interest will not be imposed on any assessable penalty, addition to the tax (other than an addition to tax described in section 6601(e)(2)(B)), or additional amount if the amount is paid within 21 calendar days (10 business days if the amount assessed and shown on the notice and demand equals or exceeds \$100,000) from the date of the notice and demand. If interest is imposed, it will be imposed only for the period from the date of the notice and demand to the date on which payment is received. This paragraph (f)(3) is applica-

ble with respect to any notice and demand made after December 31, 1996.

(4) If notice and demand is made after December 31, 1996, for any amount and the amount is paid within 21 calendar days (10 business days if the amount assessed and shown on the notice and demand equals or exceeds \$100,000) from the date of the notice and demand, interest will not be imposed for the period after the date of the notice and demand.

(5) For purposes of paragraphs (f)(3) and (4) of this section—

(i) The term *business day* means any day other than a Saturday, Sunday, legal holiday in the District of Columbia, or a statewide legal holiday in the state where the taxpayer resides or where the taxpayer's principal place of business is located. With respect to the tenth business day (after taking into account the first sentence of this paragraph (f)(5)(i)), see section 7503 relating to time for performance of acts where the last day falls on a statewide legal holiday in the state where the act is required to be performed.

(ii) The term *calendar day* means any day. With respect to the twenty-first calendar day, see section 7503 relating to time for performance of acts where the last day falls on a Saturday, Sunday, or legal holiday.

(6) No interest shall be imposed for failure to pay estimated tax as required by section 59 of the Internal Revenue Code of 1939 or section 6153 or 6154 of the Internal Revenue Code of 1954.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7238, 37 FR 28742, Dec. 29, 1972; T.D. 7301, 39 FR 978, Jan. 4, 1974; T.D. 7384, 40 FR 49324, Oct. 22, 1975; T.D. 7838, 47 FR 44252, Oct. 7, 1982; T.D. 7907, 48 FR 38230, Aug. 23, 1983; T.D. 8725, 62 FR 39117, July 22, 1997]

**§ 301.6602-1 Interest on erroneous refund recoverable by suit.**

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by a civil action pursuant to section 7405, shall bear interest at the annual rate referred to in the regulations under

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section 6621 from the date of the payment of the refund.

[T.D. 7384, 40 FR 49324, Oct. 22, 1975]

## INTEREST ON OVERPAYMENTS

**§ 301.6611-1 Interest on overpayments.**

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the annual rate referred to in the regulations under section 6621 from the date of overpayment of the tax.

(b) *Date of overpayment.* Except as provided in section 6401(a), relating to assessment and collection after the expiration of the applicable period of limitation, there can be no overpayment of tax until the entire tax liability has been satisfied. Therefore, the dates of overpayment of any tax are the date of payment of the first amount which (when added to previous payments) is in excess of the tax liability (including any interest, addition to the tax, or additional amount) and the dates of payment of all amounts subsequently paid with respect to such tax liability. For rules relating to the determination of the date of payment in the case of an advance payment of tax, a payment of estimated tax, and a credit for income tax withholding, see paragraph (d) of this section.

(c) *Examples.* The application of paragraph (b) may be illustrated by the following examples:

*Example 1.* Corporation X files an income tax return on March 15, 1955, for the calendar year 1954 disclosing a tax liability of \$1,000 and elects to pay the tax in installments. Subsequent to payment of the final installment, the correct tax liability is determined to be \$900.

Tax liability	
Assessed .....	\$1,000
Correct liability .....	900
Overassessment .....	100
Record of payments	
Mar. 15, 1955 .....	\$500
June 15, 1955 .....	500

Since the correct liability in this case is \$900, the payment of \$500 made on March 15, 1955, and \$400 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 (\$100) constitutes the amount of the overpayment, and the date on which such payment was made would be the

date of the overpayment from which interest would be computed.

*Example 2.* Corporation Y files an income tax return for the calendar year 1954 on March 15, 1955, disclosing a tax liability of \$50,000, and elects to pay the tax in installments. On October 15, 1956, a deficiency in the amount of \$10,000 is assessed and is paid in equal amounts on November 15 and November 26, 1956. On April 15, 1957, it is determined that the correct tax liability of the taxpayer for 1954 is only \$35,000.

Tax liability	
Original assessment .....	\$50,000
Deficiency assessment .....	10,000
Total assessed .....	60,000
Correct liability .....	35,000
Overassessment .....	25,000
Record of payments	
Mar. 15, 1955 .....	\$25,000
June 15, 1955 .....	25,000
Nov. 15, 1956 .....	5,000
Nov. 26, 1956 .....	5,000

Since the correct liability in this case is \$35,000, the entire payment of \$25,000 made on March 15, 1955, and \$10,000 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 (\$15,000), plus the amounts paid on November 15 (\$5,000), and November 26, 1956 (\$5,000), constitute the amount of the overpayment. The dates of the overpayments from which interest would be computed are as follows:

Date	Amount of overpayment
June 15, 1955 .....	\$15,000
Nov. 15, 1956 .....	5,000
Nov. 26, 1956 .....	5,000

The amount of any interest paid with respect to the deficiency of \$10,000 is also an overpayment.

(d) *Advance payment of tax, payment of estimated tax, and credit for income tax withholding.* In the case of an advance payment of tax, a payment of estimated income tax, or a credit for income tax withholding, the provisions of section 6513 (except the provisions of subsection (c) thereof), applicable in determining the date of payment of tax for purposes of the period of limitations on credit or refund, shall apply in determining the date of overpayment for purposes of computing interest thereon.

(e) *Refund of income tax caused by carryback.* If any overpayment of tax